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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,770	03/20/2001	Douglas C. Dahlby	015685.P091	8877

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EXAMINER

PIZARRO, RICARDO M

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 08/12/2004

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/812,770

Applicant(s)

DAHLBY ET AL.

Examiner

Ricardo M. Pizarro

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-29 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/20/01 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 1-29 are objected to because of the following informalities and it is suggested to applicant:

In claim 1 line 5 insert "message " after –request-, delete "message".

In claim 3 line 1 "message" after –request-.

In claim 4 line 1 "message" inserted after –request-.

In claim 6 line 1 delete "the".

In claim 7 line 2 delete the first occurrence of "the".

In claim 8 line 2 delete the first occurrence of "the".

In claim 11 line2 replace the first occurrence of "a" with –the-, insert "message" after –request-

In claim 12 line 6 insert "message " after –request-, delete "message".

In claim 13 line 4 replace "a" with –said-.

In claim 14 line 1 insert "message" after –request-.

In claim 16 line 2 delete the first occurrence of "the".

In claim 17 line 5 insert "message " after –request-, delete "message".

In claim 18 line 1 insert "message" after –request-.

In claim 19 line 1 insert "message" after –request-.

In claim 21 line 2 delete the first occurrence of "the". In claim 22 line 2 replace the first occurrence of "a" with –the-, insert after –request-.

In claim 24 line 6 insert "message " after –request-, delete "message".

In claim 25 line 2 delete "the".

Art Unit: 2661

In claim 26 line 1 insert after –request–.

In claim 29 line 3 replace the second occurrence of “a’ with –the–, insert “message” after –request–.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8 lines 3-4 and claim 16 lines 3-4 the term “adjusting the transmission power of the remote for use on the assigned communications channel” is unclear and not understood what the term is referring to.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Art Unit: 2661

5. Claims 1, 3, 5-10 and 12 rejected under 35 U.S.C. 102(a) as being anticipated by Bender.

US patent No. 6,539,030 (Bender et al) discloses a Method and apparatus for providing configurable layers and protocol in a communication system, comprising a method for opening a communications stream (col 2 lines 41-47) between a user terminal (access terminals 110 through 110c in Fig. 1) and a base station (SBT 112 in Fig .1)in a communications system comprising: registering the base station and the user terminal with each other by exchanging identification information and configuration information (registration takes place in the session layer 320 of Fig. 3 prior to the commencement of data communication between a first -MS- and a second entity-BS-, col 2 lines 42-45, col 7 lines 8-11, col 9 lines 54-55), sending a request to open a communications stream message from the user terminal to the base station (terminal sends an open-request to BS, col 3 lines 11-15, col 13 line 57), receiving a channel assignment message from the base station in response to the request message (terminal receives an open-response message, col 3 lines 11-15, col 13 line 59) , the channel assignment message including an identification of an assigned communications channel for the communications stream (open-response message when accepted includes an access terminal identifier, col 13 lines 66-67,col 14 lines 1-4) ; sending data from the user terminal and receiving data from the base station over the assigned communications channel (by activating session , col 16 lines 22-27) , as in claim 1; wherein the request comprises an identification of the registration information (col 3 lines 57-60) , as in claim 3; wherein sending the request message comprises sending the request message on a random access channel that is

Art Unit: 2661

shared by other terminals (col 13 lines 60-62, col 17 lines 1-3) , as in claim 5; wherein the random access channel is assigned to the user terminal during registering (open response message includes random access terminal identifier extracted from the open-request message received from terminal during registration, col 14 lines 9-11), as in claim 6; wherein , the configuration information includes information regarding the capabilities and communications environment of the user terminal(Physical layer 310 in Fig. 3 includes transmission characteristics), as in claim 7; wherein the request message includes information about the transmission power of the request message and wherein the channel assignment message includes information about transmission power of the remote for use on the assigned communications channel (physical characteristics can include transmission frequency, transmission power level, col 6 lines 61-67) as in claim 8; wherein the channel assignment message includes a timing correction for the user terminal to apply when sending data over the assigned communications channel (shorter/longer response time, col 17 lines 6-10) as in claim 9

6. Claims 17-18, 20-21 are rejected under 35 U.S.C. 102(a) as being anticipated by Bender

US patent No. 6,539,030 (Bender et al) discloses a Method and apparatus for providing configurable layers and protocol in a communication system, comprising a method for opening a communications stream between a user terminal and a base station (col 2 lines 41-47) in a communications system comprising: registering the base station and the user terminal with each other by exchanging identification information and configuration information (registration takes place in the session layer 320 of Fig. 3 prior to the commencement of data communication exchanging information between a first -MS-

Art Unit: 2661

and a second entity-BS-, col 2 lines 42 -45, col 7 lines 8-11, col 9 lines 54-55), receiving a request to open a communications stream message at the base station from the user terminal, sending (terminal receives an open-response message, col 3 lines 11-15, col 13 line 59) a channel assignment message from the base station in response to the request message, the channel assignment message including an identification of an assigned communications channel for the communications stream; receiving data from the user terminal stream (open-response message when accepted includes an access terminal identifier, col 13 lines 66-67, col 14 lines 1-4) and sending data from the base station over the assigned communications channel (by activating session, col 16 lines 22-27), as in claim 17; wherein the request comprises an identification of the registration information (col 3 lines 57-60), as in claim 18; wherein receiving the request message comprises receiving the request message on a random access channel that is assigned to the user terminal during registering and that is shared with other user terminals (col 13 lines 60-62, col 17 lines 1-3), as in claim 20; wherein the configuration information includes information regarding the capabilities and communications environment of the user terminal (Physical layer 310 in Fig. 3 includes transmission characteristics), as in claim 21.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2661

Claims 2, 4 and 11, 13, 19, 22-23, 26, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bender in view of Chuang.

Bender did not specifically disclose receiving data to transmit at a buffer in the user terminal and sending a request in claims 2, 13 and 23, a training sequence as in claims 4 and 19 and 26, receiving a page from the BS and sending the request message in response to said page, as in claims 11, 22, 29.

US patent No. 6,052,594 (Chuang et al) discloses a system for assigning channels for wireless communications comprising receiving data to transmit at a buffer in the user terminal and terminal responding upon receipt (data stored in terminal 93, upon receipt of a paging message from BS, terminal station scans –responds by scanning– for idle channels) as in claim 2; a training sequence to assist the BS (col 8 lines 55-59), as in claim 4, 19 and 26; receiving a page from the BS and sending a message in response to said page (col 12 lines 20-23, as in claim 11).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the system disclosed by Bender with the paging means as disclosed by Chuang with the motivation of obtaining an access protocol that provides bandwidth on demand and reuses spectrum resources providing high throughput and good quality of service.

8. Claims 12, 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bender.

US patent No. 6,539,030 (Bender et al) discloses a Method and apparatus for providing configurable layers and protocol in a communication system, comprising: registering a

Art Unit: 2661

base station and a user terminal of a communications system with each other by exchanging identification information and configuration information (registration takes place in the session layer 320 of Fig. 3 prior to the commencement of data communication exchanging information between a first -MS- and a second entity-BS-, col 2 lines 42 -45, col 7 lines 8-11, col 9 lines 54-55); sending a request to open a communications stream message from the user terminal to the base station (terminal sends an open-request to BS, col 3 lines 11-15, col 13 line 57), receiving a channel assignment message from the base station in response to the request message (terminal receives an open-response message, col 3 lines 11-15, col 13 line 59), the channel assignment message including an identification of an assigned communications channel for the communications stream (open-response message when accepted includes an access terminal identifier, col 13 lines 66-67,col 14 lines 1-4) , sending data from the user terminal and receiving data from the base station over the assigned communications channel (by activating session , col 16 lines 22-27), as claim 12; wherein the request comprises an identification of the registration information (col 3 lines 57-60), as in claim 14; sending the request message on a random access channel is assigned to the user terminal during registering and that is shared with other user terminals (col, 13 lines 60-62) as in claim 15; wherein the request message includes information about the transmission power of the request message and wherein the channel assignment message includes information about the transmission power for use on the assigned communications channel (Physical characteristics in Physical layer 310 in Fig. 3 includes transmission frequency, transmission power level, col 6 lines 61-67) , as in claim 16.

Art Unit: 2661

Bender did not specifically disclose said method and apparatus including a computer readable medium, as in claim 12.

Therefore, in order to have a program or computer controlled process it would have been obvious to a person of ordinary skill in the art at the time of the invention that some kind of medium such as a memory or storage means, with the motivation of obtaining a method for configuring a layer or protocol prior to commencement of data communications including an air interface that supports implementations of a variety of functions such as voice communications, and data communications.

9. Claims 24-25, 27-28 rejected under 35 U.S.C. 103(a) as being unpatentable over Bender.

US patent No. 6,539,030 (Bender et al) discloses a Method and apparatus for providing configurable layers and protocol in a communication system, comprising: registering a base station and a user terminal of a communications system with each other by exchanging identification information and configuration information (registration takes place in the session layer 320 of Fig. 3 prior to the commencement of data communication exchanging information between a first -MS- and a second entity-BS-, col 2 lines 42 -45, col 7 lines 8-11, col 9 lines 54-55) ; receiving a request to open a communications stream message at the base station from the user terminal (terminal send an open-request message received at network, col 3 lines 11-14, col 5 lines 49-57); sending a channel assignment message from the base station in response to the request message, the channel assignment message including an identification of an assigned communications channel for the communications stream; receiving data from the user terminal and sending data from the base station over the assigned communications

Art Unit: 2661

channel (by activating session , col 16 lines 22-27), as in claim 24; wherein the request comprises an identification of the registration information((col 3 lines 57-60), as in claim 25; receiving the request message on a random access channel that is assigned to the user terminal during registering and that is shared other user terminals (col 13 lines 60-62), as in claim 27; wherein the configuration information includes information regarding the capabilities and communications environment of the user terminal (Physical layer 310 comprises transmission characteristics, col 6 lines 61-67), as in claim 28.

Bender did not specifically disclose said method and apparatus including a computer readable medium, as in claim 24

Therefore, in order to have a program o computer controlled process it would have been obvious to a person of ordinary skill in the art at the time of the invention that some kind of medium such as a memory or storage means, with the motivation of obtaining a method for configuring a layer or protocol prior to commencement of data communications including an air interface that supports implementations of a variety of functions such as voice communications, and data communications .

Allowable Subject Matter

10. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Please notice objection under 37 CFR 1.75

Art Unit: 2661

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US patent No. 6,771,618 (Ueda) discloses a Packet transfer method.
- US patent No. 5,642,354 (Spear) discloses an enhanced access method.
- US patent No. 5,640,395(Hamalainen) discloses a transmission system.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314

(for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ricardo Pizarro** whose telephone number is (703) 305-1121. The examiner can normally be reached on Monday-Friday from 9:00 AM to 5:30 PM. The fax number for this Group is (703) 872-9314.

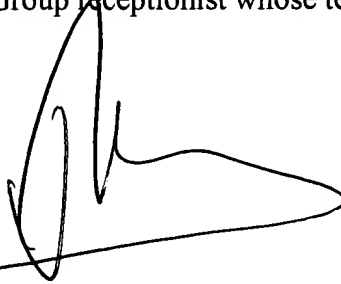
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Douglas Olms**, can be reached on (703) 305-4703.

Art Unit: 2661

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

8/4/2004

Ricardo M. Pizarro

A handwritten signature in black ink, appearing to be "Ricardo M. Pizarro", written over a horizontal line. The signature is stylized with a large loop at the end.